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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Bernard Belleau et al.

Examiner: T. McKenzie

Serial No.: 09/760,380

Group Art Unit: 1624

Filed: January 16, 2001

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Title: PROCESS FOR PREPARING SUBSTITUTED 1,3-OXATHIOLANES
WITH ANTIVIRAL PROPERTIES

ELECTION

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In response to the Office Actions dated July 10, 2002, applicants submit the following arguments.

REMARKS

In the Office Action of July 10, 2002, the Examiner sets forth a 15-way Restriction. Applicants' wish to select as the elected invention the subject matter wherein the base moiety R^2 is that of the first formula shown in claim 35. Based on the subject matter Groups set forth in the Office Action, it appears that this subject matter falls within Group III. Therefore, applicants' elect Group III. However, the restriction is traversed.

Firstly, the 15 Groups set forth in Restriction do not identify which claims are encompassed therein. Thus, it is unclear which claims will be examined for each Group.

The Office Action states which claims "link" which Groups. In light of these linking claims, applicants assume that examination will proceed in accordance with MPEP §809.04.

In the Office Action, it is asserted that the heterocyclic rings which form the basis of the Restriction are non-equivalent. No basis is given for this assertion. Moreover, there is no requirement under the law that all species within a genus claim be equivalent. Further, it is argued that the rings are not recognized as sharing chemical properties. Again, no basis is given for this assertion that there are no similar properties exhibited by two or more of these

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